

EXHIBIT 13

David Hollasch

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<p>1 UNITED STATES DISTRICT COURT 2 SOUTHERN DISTRICT OF NEW YORK 3 -----X 4 UNITED STATES OF AMERICA, the States 5 of CALIFORNIA, COLORADO, CONNECTICUT, 6 DELAWARE, FLORIDA, GEORGIA, HAWAII, 7 ILLINOIS, INDIANA, IOWA, LOUISIANA, Case Number 8 MASSACHUSETTS, MICHIGAN, MINNESOTA, 11 Civ. 0071 (PGG) 9 MONTANA, NEVADA, NEW HAMPSHIRE, 10 NEW JERSEY, NEW MEXICO, NEW YORK, 11 NORTH CAROLINA, OKLAHOMA, RHODE ISLAND, 12 TENNESSEE, TEXAS, VIRGINIA, WASHINGTON 13 and WISCONSIN; the DISTRICT OF COLUMBIA, 14 the CITY OF CHICAGO and ex rel. OSWALD 15 BILOTTA, 16 Plaintiffs and Relator, 17 -against- 18 NOVARTIS PHARMACEUTICALS CORPORATION, 19 Defendant. 20 -----X 21 November 29, 2016, 9:38 a.m. 22 Deposition of DAVID HOLLASCH 23 lipka.com, inc. 24 888.lipka.com 25 transcripts@lipka.com</p> <p style="text-align: right;">Page 1</p>	<p>1 A P P E A R A N C E S (Continued): 2 3 SKADDEN ARPS SLATE MEAGHER & FLOM, LLP. 4 Attorneys for the Witness 5 4 Times Square 6 New York, New York 10036 7 BY: STEVEN R. GLASER, ESQ. 8 YOOSUN KOH, ESQ. 9 10 11 12 13 ALSO PRESENT: 14 SARA M. ZAUSMER, ESQ. Novartis Services, Inc. 15 JOE BARRION, Videographer 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 3</p>
<p>1 A P P E A R A N C E S: 2 3 U.S DEPARTMENT OF JUSTICE 4 U.S. ATTORNEY'S OFFICE 5 SOUTHERN DISTRICT OF NEW YORK 6 Attorneys for Plaintiff 7 86 Chambers Street 8 New York, New York 10007 9 BY: JENNIFER JUDE, ESQ. 10 11 SHEPHERD FINKELMAN MILLER & SHAH, LLP. 12 Attorneys for Relator, Oswald Bilotta 13 65 Main Street 14 Chester, Connecticut 06412 15 BY: EMILY C. FINESTONE, ESQ. 16 17 CRAVATH SWAINE & MOORE, LLP. 18 Attorneys for Defendant and the Witness 19 Worldwide Plaza 20 825 Eighth Avenue 21 New York, New York 10019-7475 22 BY: BENJAMIN GRUENSTEIN, ESQ. 23 KIMBERLY M. JEFFERS, ESQ. 24 25</p> <p style="text-align: right;">Page 2</p>	<p>1 November 29, 2016 2 New York, New York 3 --- 4 THE VIDEOGRAPHER: Good 5 morning. Today's date is November 29, 2016. 6 The time is exactly 9:38 a.m. 7 My name is Joe Barrion, I'm a 8 videographer representing the court reporting 9 firm lipka.com, incorporated. Your court 10 reporter today is Frank Bas, who is also 11 representing lipka.com. 12 The case before us today is 13 the United States of America, et al., 14 versus Novartis Pharmaceuticals Corporation, 15 filed in the United States District Court, 16 Southern District of New York, Case No. 11 17 Civ. 0071(PGG). 18 The witness today is David 19 Hollasch. 20 Will counsel please identify 21 yourselves and state whom you represent? 22 MS. JUDE: Jennifer Jude from 23 the U.S. Attorney's Office for the United 24 States. 25 MR. GLASER: Steven Glaser and</p> <p style="text-align: right;">Page 4</p>

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<p>1 Yoosun Koh from Skadden Arps Slate Meagher 2 & Flom, LLP., on behalf of Mr. Hollasch. 3 MR. GRUENSTEIN: Benjamin 4 Gruenstein of Cravath Swaine & Moore for 5 Novartis. 6 MS. JEFFERS: Kimberly Jeffers 7 from Cravath Swaine & Moore. 8 MS. ZAUSMER: Sara Zausmer, 9 Novartis Services Inc. 10 MS. FINESTONE: Emily Finestone 11 from Shepherd Finkelman Miller & Shah on 12 behalf of the Relator. 13 MR. GLASER: Jen, just before 14 we start I want to put on the record the 15 agreement that we had that in order to comply 16 with the seven-hour limit you are going to 17 take five hours and 50 minutes or less, I'll 18 then take up to an hour, and then you'll have 19 ten minutes for redirect. 20 MS. JUDE: Thank you. 21 THE VIDEOGRAPHER: Will the 22 court reporter please swear in the witness? 23 24 DAVID HOLLASCH, 25 called as a witness, having been first duly</p> <p style="text-align: right;">Page 5</p>	<p>1 DAVID HOLLASCH 2 A. Okay. 3 Q. So, as you can see, the court 4 reporter is taking down everything that you 5 and I say, so I ask that to make his job 6 easier you wait until I finish the end of my 7 question before you start the beginning of 8 your answer. Sometimes people anticipate what 9 I am going to say and start answering earlier, 10 but just so he can have a clean record try to 11 leave a pause there in between my questions 12 and your answers. Okay? 13 A. Sure. 14 Q. Okay. And please also give a 15 verbal response to every question, because he 16 can't take down like head nods and shakes of 17 the head. 18 A. Okay. 19 Q. Okay. If at any time you don't 20 understand one of my questions let me know 21 that you don't understand it and I will 22 rephrase it, but if you answer it I am going 23 to assume that you did understand it. Okay? 24 A. Okay. 25 Q. And if you want to take a break</p> <p style="text-align: right;">Page 7</p>
<p>1 sworn, was examined and testified 2 as follows: 3 EXAMINATION BY 4 MS. JUDE: 5 Q. Good morning. Please state 6 your name and home address for the record. 7 A. My name is David Hollasch. I 8 live at 19 Holecomb Drive in Hillsborough, 9 New Jersey. 10 Q. Good morning, Mr. Hollasch. 11 A. Good morning. 12 Q. This is the first time we've 13 met, is that correct? 14 A. That is correct. 15 Q. My name is Jen Jude, I am an 16 Assistant U.S. Attorney at the U.S. Attorney's 17 Office for the Southern District of New York, 18 and I represent the United States in this 19 lawsuit that we've brought against Novartis 20 Pharmaceuticals Corporation. 21 During today's deposition I am 22 going to be asking you a series of questions 23 which you are required to answer under oath. 24 But before we get to those I am going to go 25 over a few ground rules for deposition.</p> <p style="text-align: right;">Page 6</p>	<p>1 DAVID HOLLASCH 2 at any time just let me know, we'll go off the 3 record. I just ask that you wait until you 4 answer the question that's pending before we 5 take a break. 6 A. Okay. 7 Q. Okay. Great. Is there any 8 reason why you believe you may not be able to 9 respond fully and truthfully to the questions 10 that I pose to you today? 11 A. No. 12 Q. Have you ever been deposed 13 before? 14 A. No. 15 Q. Have you ever given testimony 16 in court before? 17 A. No. 18 Q. What did you do to prepare for 19 today's deposition? 20 A. Just had a, two days of 21 meetings with my counsel. 22 Q. Which days were those? 23 A. Yesterday, and I would have to 24 check the calendar for the other day. 25 Q. Approximately how long ago?</p> <p style="text-align: right;">Page 8</p>

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<p>1 DAVID HOLLASCH</p> <p>2 Q. So Mr. Hollasch, the bottom</p> <p>3 email, the last one in this exhibit, is an</p> <p>4 email from you to Cynthia Cetani, Beth</p> <p>5 Margerison and Marty Putenis, cc'ing Natasha</p> <p>6 Nelson, from March 11, 2009. And the subject</p> <p>7 is "Out of Office Program Attendees." And in</p> <p>8 this email you reference "our speaker program</p> <p>9 audits." Is that a reference to the 2008</p> <p>10 audit of speaker programs?</p> <p>11 A. Yes.</p> <p>12 Q. And you say: "Many attendees</p> <p>13 did not indicate any degree, specialty or</p> <p>14 address, and they will be followed up on as</p> <p>15 well. Several of the auditors noted apparent</p> <p>16 family members of the speaker in attendance</p> <p>17 and the sign-in sheets for those programs did</p> <p>18 reveal a few attendees who clearly are</p> <p>19 non-HCPS."</p> <p>20 Does that describe the results</p> <p>21 of the 2008 audit?</p> <p>22 A. Yes.</p> <p>23 Q. And below that you wrote:</p> <p>24 "Natasha and I believe the policy should</p> <p>25 clearly state that non-HCPs should be</p> <p style="text-align: right;">Page 165</p>	<p>1 DAVID HOLLASCH</p> <p>2 A. I mean, off the top of my head,</p> <p>3 no. I mean, I sent it to Niral so he could go</p> <p>4 through and look up all of these people in</p> <p>5 Concerto and see if they had a profile for</p> <p>6 them. Because a lot of these people, I mean,</p> <p>7 we could do some of that, and we tried doing</p> <p>8 that during the audit, but if, you know, say</p> <p>9 Dr. Jim Johnson brings Nancy Johnson to a</p> <p>10 program, I mean, there's plenty of Nancy</p> <p>11 Johnsons in the metropolitan area so I</p> <p>12 wouldn't assume. I guess we sent this list to</p> <p>13 Niral so he could say if there was, in fact, a</p> <p>14 contact already established in Concerto for</p> <p>15 Nancy Johnson.</p> <p>16 Q. Do you see the email above the</p> <p>17 response from Mr. Putenis where he writes: "I</p> <p>18 agree that we need to tighten things here, but</p> <p>19 the solution is not so simple"?</p> <p>20 A. Right.</p> <p>21 Q. Do you remember having any back</p> <p>22 and forth with Mr. Putenis or others about the</p> <p>23 non-legitimate attendee issue at speaker</p> <p>24 programs?</p> <p>25 A. Yes. I mean, I recall Marty,</p> <p style="text-align: right;">Page 167</p>
<p>1 DAVID HOLLASCH</p> <p>2 prohibited from attending speaker programs and</p> <p>3 sales representatives should be provided</p> <p>4 guidance on how to handle the issue when a</p> <p>5 speaker brings his spouse or office manager to</p> <p>6 a program."</p> <p>7 Why did you come to that</p> <p>8 conclusion?</p> <p>9 A. Because there's no purpose, or</p> <p>10 there's no reason why they should be at the</p> <p>11 program. The program is geared to educate</p> <p>12 health care professionals about the product</p> <p>13 and how to use it, you know, in treating</p> <p>14 patients, and if you're not an HCP, what's the</p> <p>15 point of you coming to the program.</p> <p>16 Q. Do you see the bottom</p> <p>17 paragraph, where you wrote: "I will be</p> <p>18 following up today by sending the file of all</p> <p>19 the potential attendees at speaker programs</p> <p>20 who appear to be non-HCPs to Niral for</p> <p>21 Concerto lookup and I will let you know the</p> <p>22 extent of this issue."</p> <p>23 A. Right.</p> <p>24 Q. Do you know what the extent of</p> <p>25 that issue was?</p> <p style="text-align: right;">Page 166</p>	<p>1 DAVID HOLLASCH</p> <p>2 you know -- Marty was -- Marty was tough on --</p> <p>3 any time we tried to make change, you know, he</p> <p>4 was always hesitant, resistant. You know,</p> <p>5 just one of those people, I guess, who didn't</p> <p>6 like change or whatever reason. But, you</p> <p>7 know, I tried to -- to me, I mean, it was</p> <p>8 pretty simple. Right? There are people that</p> <p>9 should be there to learn or people who</p> <p>10 shouldn't be there. The question that I agree</p> <p>11 with him that's not simple is you have a</p> <p>12 program and then you're trying to decide which</p> <p>13 HCP is appropriate to go to that program.</p> <p>14 That I could agree with him. That's not so</p> <p>15 simple.</p> <p>16 Q. Was there any change to the</p> <p>17 controls, system controls in place as they</p> <p>18 related to legitimate or non-legitimate</p> <p>19 attendees at speaker programs while you were</p> <p>20 at Novartis?</p> <p>21 A. Yes. Eventually there was a</p> <p>22 change to -- to, if I remember right, a couple</p> <p>23 of process-related changes.</p> <p>24 So one, there was what was</p> <p>25 called an HCP matrix or degree matrix or</p> <p style="text-align: right;">Page 168</p>

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<p>1 DAVID HOLLASCH</p> <p>2 A. Right.</p> <p>3 Q. And it appears that she</p> <p>4 suggests that it be added, the sentence,</p> <p>5 ""Ethics & Compliance policy requires that</p> <p>6 meals associated with interactions with</p> <p>7 physicians be provided on an occasional basis,</p> <p>8 and as such, frequent participation by these</p> <p>9 same attendees should be reviewed.""</p> <p>10 A. Okay. I'm sorry. I've just</p> <p>11 been flipping back and forth. So I'm looking</p> <p>12 at the dashboard again. I just want to make</p> <p>13 sure it's -- so this is looking at -- and</p> <p>14 you're right -- this is looking at speaker</p> <p>15 event attendance. Your question again is?</p> <p>16 Q. Yeah. Do you agree with her,</p> <p>17 this portion of her email that her addition</p> <p>18 that ""Ethics & Compliance policy requires</p> <p>19 that meals associated with interactions with</p> <p>20 physicians be provided on an occasional basis,</p> <p>21 and as such, frequent participation by the</p> <p>22 same attendees should be reviewed,""</p> <p>23 presumably by the FLMs?</p> <p>24 MR. GRUENSTEIN: Objection.</p> <p>25 A. I mean, I think her -- I look</p> <p style="text-align: right;">Page 241</p>	<p>1 DAVID HOLLASCH</p> <p>2 should be reviewed by either someone in</p> <p>3 compliance or a first-line manager?</p> <p>4 MR. GRUENSTEIN: Objection.</p> <p>5 A. Yes, I agree it should be</p> <p>6 reviewed. Because the point is they're</p> <p>7 supposed to go there and learn about an event,</p> <p>8 and for them to go more than -- for them to go</p> <p>9 to an excessive number of programs is</p> <p>10 inappropriate.</p> <p>11 Q. And how would you define</p> <p>12 "excessive"?</p> <p>13 MR. GRUENSTEIN: Objection.</p> <p>14 A. Again, you have to define the</p> <p>15 criteria. Is it excessive per therapeutic</p> <p>16 area or per product? I mean, I know from my</p> <p>17 own experiences, in talking with speakers,</p> <p>18 talking with HCPs at programs, sometimes they</p> <p>19 like to go to a program, the same program with</p> <p>20 a different speaker who might have a different</p> <p>21 outlook on the product. It might be a better</p> <p>22 presenter. Sometimes they go to a</p> <p>23 presentation and they have a poor presenter of</p> <p>24 the materials. Right? And maybe they say,</p> <p>25 oh, this person's a renowned or a known, I</p> <p style="text-align: right;">Page 243</p>
<p>1 DAVID HOLLASCH</p> <p>2 at the scenario check and the question there,</p> <p>3 and I agree with -- I guess her comment is, I</p> <p>4 think, asking for greater clarification in the</p> <p>5 edit to that, about how many people you're</p> <p>6 checking to look for. Right? It says check</p> <p>7 if the same speaker and/or participants are</p> <p>8 attending repeatedly. And I'm not sure if</p> <p>9 she's trying to say give them a number of how</p> <p>10 frequent, or -- I mean, she doesn't reference</p> <p>11 a number, but how frequent. I mean, I think</p> <p>12 this goes back to the comment I made earlier</p> <p>13 about occasional or a frequency. I mean,</p> <p>14 there has to be a number or something attached</p> <p>15 to that, that can be measured.</p> <p>16 Q. Was there any number in</p> <p>17 Novartis's policies provided for frequency</p> <p>18 with which an HCP could attend an event?</p> <p>19 A. I mean, first, I don't believe</p> <p>20 so. And then I think ultimately there was a</p> <p>21 number that was agreed upon, but I can't</p> <p>22 remember if that number was per year or per</p> <p>23 therapeutic area or per product.</p> <p>24 Q. Do you agree that frequency of</p> <p>25 attendance of an event is something that</p> <p style="text-align: right;">Page 242</p>	<p>1 DAVID HOLLASCH</p> <p>2 don't want to say expert in the field, but a</p> <p>3 much greater known speaker. And they say,</p> <p>4 well, let me see if I can learn from this</p> <p>5 speaker. He may go to a more prestigious --</p> <p>6 or he may work at a more prestigious hospital</p> <p>7 or clinic, or whatever the case may be.</p> <p>8 Q. Do you think that there should</p> <p>9 be a limit on the number of times an HCP can</p> <p>10 attend the same program with a different</p> <p>11 speaker every time?</p> <p>12 MR. GRUENSTEIN: Objection.</p> <p>13 A. I think there should be -- me</p> <p>14 personally, I think there should be a limit on</p> <p>15 the number of times an HCP goes to the same</p> <p>16 program per year. Because if I want to go to</p> <p>17 a program in February and then I want to go to</p> <p>18 another program on the same topic in November,</p> <p>19 I might have forgotten about it, or I might</p> <p>20 not have used it. I might say maybe I want to</p> <p>21 learn about that again. I don't think there's</p> <p>22 an issue with that.</p> <p>23 But if I want to go to a</p> <p>24 program, the same program every month and I'm</p> <p>25 an HCP, the rep should say I'm not going to --</p> <p style="text-align: right;">Page 244</p>

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<p>1 DAVID HOLLASCH</p> <p>2 give you another document to be marked as the</p> <p>3 next exhibit, Hollasch Exhibit 13.</p> <p>4 ---</p> <p>5 (Exhibit Hollasch GX-13, Email</p> <p>6 chain, Bates NPCLSV_LIT001574885 through 4887</p> <p>7 was marked for identification)</p> <p>8 ---</p> <p>9 BY MS. JUDE:</p> <p>10 Q. And this starts with 001574885</p> <p>11 through 4886 with an Excel spreadsheet</p> <p>12 attached, which is 4887.</p> <p>13 And do you remember conducting</p> <p>14 a series of audits in Tampa, Florida?</p> <p>15 A. I recall doing -- I conducted</p> <p>16 one speaker program audit in Tampa and a</p> <p>17 number of -- or two -- two interviews the</p> <p>18 following day. It was related to an</p> <p>19 investigation of Dr. Serrano and some of the</p> <p>20 sales representatives who had hosted speaker</p> <p>21 programs of his or had called upon him during</p> <p>22 their sales activities.</p> <p>23 Q. And what do you recall about</p> <p>24 the audit of his speaker program in Tampa?</p> <p>25 A. So it was a speaker program</p> <p style="text-align: right;">Page 261</p>	<p>1 DAVID HOLLASCH</p> <p>2 then we thanked her. Then Rich and I went</p> <p>3 over to the bar and, you know, we sat in the</p> <p>4 bar area for probably about 15 minutes. I</p> <p>5 think the program was set to start, you know,</p> <p>6 at the top of the hour. I don't know if it</p> <p>7 was 7 o'clock or 8 o'clock or whatever. But</p> <p>8 Rich and I waited at the bar until about a</p> <p>9 quarter after.</p> <p>10 And then we went over to the</p> <p>11 table and we announced ourselves as, you know,</p> <p>12 employees from Novartis, and showed them our</p> <p>13 IDs and said we're here to audit the speaker</p> <p>14 program.</p> <p>15 And when we met the</p> <p>16 participants of the program there was no</p> <p>17 computers at the table, there were some</p> <p>18 appetizers at the table, there was drinks at</p> <p>19 the table, there was Dr. Serrano, his wife,</p> <p>20 and if I believe right, I think four other HCP</p> <p>21 attendees.</p> <p>22 So we stayed for the program.</p> <p>23 One of the representatives ran out to their</p> <p>24 car, got their computer, came back in and gave</p> <p>25 it to Dr. Serrano's wife. She booted it up,</p> <p style="text-align: right;">Page 263</p>
<p>1 DAVID HOLLASCH</p> <p>2 audit that we did not give advance notice to,</p> <p>3 it was done by myself and another member of</p> <p>4 the ethics and compliance department. His</p> <p>5 name was Rich Eschle. And so we went to the</p> <p>6 venues, and Rich and I, you know, I took the</p> <p>7 lead, and Rich accompanied me. I went to the</p> <p>8 hostess and I asked what was the private room</p> <p>9 that Novartis had for this night for the</p> <p>10 speaker program, and the hostess says -- you</p> <p>11 know, she checked.</p> <p>12 She said, I don't have a</p> <p>13 private room for you.</p> <p>14 And I said, well, do you know</p> <p>15 who the representative is and, you know, where</p> <p>16 are they sitting.</p> <p>17 She said, sure, I'll take you</p> <p>18 over there.</p> <p>19 I said, no, just tell me where</p> <p>20 he is, if you could just, you know -- and my</p> <p>21 back was to the room. I said, can you just</p> <p>22 give us a general idea of where he is and</p> <p>23 where he's sitting.</p> <p>24 As she said it, Rich could look</p> <p>25 and, you know -- so we saw who it was. And</p> <p style="text-align: right;">Page 262</p>	<p>1 DAVID HOLLASCH</p> <p>2 got to the slide deck and then gave him the</p> <p>3 computer, and then he started his presentation</p> <p>4 through the materials.</p> <p>5 The rep sent a sign-in sheet</p> <p>6 around and, you know, the program.</p> <p>7 Dr. Serrano went through the slide deck and</p> <p>8 asked questions and answers. At the end of</p> <p>9 the program, you know, we talked to the</p> <p>10 representatives and then left.</p> <p>11 Q. So is it your opinion that your</p> <p>12 presence at the speaker program was the reason</p> <p>13 that there was an educational presentation</p> <p>14 that was presented later on that night?</p> <p>15 MR. GRUENSTEIN: Objection.</p> <p>16 A. I mean, in my opinion there</p> <p>17 clearly was no intent to have a discussion.</p> <p>18 From the time they sat down until the time</p> <p>19 that we announced ourselves there was no</p> <p>20 computers, there was no slide decks, there was</p> <p>21 no -- the food with the meal had already been</p> <p>22 started to serve. I mean, the program was</p> <p>23 scheduled to start at 7 p.m. It was already a</p> <p>24 quarter after -- 7 or 8, I can't remember, and</p> <p>25 it was already 15 minutes into it, and usually</p> <p style="text-align: right;">Page 264</p>

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<p>1 DAVID HOLLASCH</p> <p>2 these programs, you know, they start on time,</p> <p>3 or start shortly thereafter.</p> <p>4 But usually the first thing,</p> <p>5 you go into a program, speakers are usually</p> <p>6 one of the first attendees, goes early, sets</p> <p>7 up all the -- you know, the host</p> <p>8 representative may be there, put out some</p> <p>9 prescribing information pamphlets on the</p> <p>10 table. You know that the program is going to</p> <p>11 occur.</p> <p>12 Q. Besides this audit of</p> <p>13 Dr. Serrano's dinner in Tampa, did you conduct</p> <p>14 any other surprise audits while you were at</p> <p>15 Novartis?</p> <p>16 A. No.</p> <p>17 Q. On GX-13, in Rebecca Miller's</p> <p>18 email on the bottom of the first page she</p> <p>19 writes: "David, I have filled out your</p> <p>20 spreadsheet for 2009 for the speaker. I have</p> <p>21 the HCPs that only attended once hidden, as</p> <p>22 well as the cancelled programs. I plan on</p> <p>23 taking a look at 2008 next, but let me know if</p> <p>24 you would like me to look at anything else</p> <p>25 first."</p> <p style="text-align: right;">Page 265</p>	<p>1 DAVID HOLLASCH</p> <p>2 just move on to other things.</p> <p>3 And then it was months later,</p> <p>4 probably -- I mean, I'm guessing probably</p> <p>5 maybe eight, nine months later, it was like,</p> <p>6 you know that investigation we started on</p> <p>7 Dr. Serrano, we need to start that up again,</p> <p>8 and that's high priority, we need to get it</p> <p>9 done as soon as possible.</p> <p>10 Q. Do you know the cause of that</p> <p>11 delay of --</p> <p>12 A. No, I don't.</p> <p>13 Q. And why did you ask Ms. Miller</p> <p>14 to count the number of times that these</p> <p>15 particular individuals attended Dr. Serrano's</p> <p>16 programs?</p> <p>17 A. I think when I first started</p> <p>18 looking at the first couple of programs for</p> <p>19 him I saw there were similar attendees at all</p> <p>20 of the programs. So that was one of the</p> <p>21 things I wanted to look at: Out of how many</p> <p>22 programs we had, how many of the same people</p> <p>23 went to those programs.</p> <p>24 Q. And why did you want to look at</p> <p>25 whether the same people went to Dr. Serrano's</p> <p style="text-align: right;">Page 267</p>
<p>1 DAVID HOLLASCH</p> <p>2 And she writes, "Observations</p> <p>3 so far. Out of 34 programs in 2009," and then</p> <p>4 there's a list of several attendees' names</p> <p>5 with the number of times that they attended</p> <p>6 programs of Dr. Serrano's --</p> <p>7 A. Right.</p> <p>8 Q. -- which seems to reflect the</p> <p>9 results and the attached spreadsheet.</p> <p>10 Did you direct Ms. Miller to</p> <p>11 perform this analysis?</p> <p>12 A. Yes.</p> <p>13 Q. And why did you do that?</p> <p>14 A. I mean, this was -- I can't</p> <p>15 recall -- I can't recall exactly how this</p> <p>16 investigation with Dr. Serrano started. I'm</p> <p>17 not sure if Natasha said to me, hey, pull all</p> <p>18 of the speaker programs for this doctor and,</p> <p>19 you know, let's analyze that. I do know at</p> <p>20 one point in time I was asked to pull all of</p> <p>21 the speaker programs in the data and start</p> <p>22 looking at it, and I had started doing that,</p> <p>23 and then I was told to stop it, and, you know,</p> <p>24 just the direction was don't worry about it --</p> <p>25 don't do any more work on it. You know, let's</p> <p style="text-align: right;">Page 266</p>	<p>1 DAVID HOLLASCH</p> <p>2 programs multiple times?</p> <p>3 A. I mean, I thought it was a</p> <p>4 risk, or certainly an inappropriate, to me,</p> <p>5 activity for someone to go to 25 out of 34</p> <p>6 programs that the same speaker held.</p> <p>7 Q. Did you draw any conclusion</p> <p>8 about the appropriateness of Dr. Serrano's</p> <p>9 programs from the observations that Rebecca</p> <p>10 Miller put in her email?</p> <p>11 MR. GRUENSTEIN: Objection;</p> <p>12 vague.</p> <p>13 A. No, I didn't draw any</p> <p>14 conclusions other than that, you know, the</p> <p>15 attendees -- the pattern of attendees looked</p> <p>16 highly unusual.</p> <p>17 Q. The spreadsheet that's</p> <p>18 attached, do you know where Ms. Miller got the</p> <p>19 data about these events that she input into</p> <p>20 the spreadsheet?</p> <p>21 A. Yes. The data she got was all</p> <p>22 from AHM. I think I started this spreadsheet</p> <p>23 based upon exporting the data from AHM, and</p> <p>24 then most of these column headings I probably</p> <p>25 created -- I mean, they were part of what</p> <p style="text-align: right;">Page 268</p>

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<p>1 DAVID HOLLASCH</p> <p>2 they do it. And one of the key things, you</p> <p>3 know, you do a walk-through of a process and</p> <p>4 take a transaction and walk it through the</p> <p>5 system, how it's processed, how it's recorded,</p> <p>6 how it's captured.</p> <p>7 And one of the things I always</p> <p>8 directed them to is, you know: What are your</p> <p>9 thoughts on this? Do you think it can be done</p> <p>10 differently, a better way?</p> <p>11 You know, it gives process</p> <p>12 owners an opportunity to really vent, or</p> <p>13 sometimes they have great ideas that get shot</p> <p>14 down, and sometimes those are ideas that, when</p> <p>15 heard from an independent party, management's</p> <p>16 more receptive to, and then you can help push</p> <p>17 a proposal through that ultimately winds up</p> <p>18 benefiting the company.</p> <p>19 Q. And if the company recognizes</p> <p>20 that there are ways to improve its policies,</p> <p>21 let's say, to benefit the company, does that</p> <p>22 mean that its prior policies were bad?</p> <p>23 MS. JUDE: Objection.</p> <p>24 A. No. I mean, to me it doesn't</p> <p>25 mean they were bad. You know, policies are</p> <p style="text-align: right;">Page 305</p>	<p>1 DAVID HOLLASCH</p> <p>2 the industry, new to their jobs, they might be</p> <p>3 right out of school hired and don't know how</p> <p>4 to do things yet, and they're trained by</p> <p>5 people, and maybe they're not trained</p> <p>6 effectively. You know, you have an</p> <p>7 opportunity to help them improve their</p> <p>8 performance.</p> <p>9 Q. Would you agree that Novartis's</p> <p>10 compliance function had experienced compliance</p> <p>11 personnel when you arrived?</p> <p>12 A. Yes.</p> <p>13 Q. Did that include Julie Kane?</p> <p>14 A. Yes.</p> <p>15 Q. Did that include Natasha</p> <p>16 Nelson-Ling?</p> <p>17 A. Yes.</p> <p>18 Q. The issues that you identified</p> <p>19 in the 2008 audit, for example, that not all</p> <p>20 slides were being read in a speaker program,</p> <p>21 how were you able to identify that issue when</p> <p>22 experienced compliance people had not been</p> <p>23 able to identify it before?</p> <p>24 A. Well, I don't think I was the</p> <p>25 only one who identified that. I mean, when</p> <p style="text-align: right;">Page 307</p>
<p>1 DAVID HOLLASCH</p> <p>2 created at a point in time, and there's always</p> <p>3 opportunity for improvement. You know, it all</p> <p>4 depends on who created the policies and how</p> <p>5 often they're reviewed. You might have had</p> <p>6 people in charge of policies that, you know,</p> <p>7 have tight deadlines, and they do it fast and</p> <p>8 then it's done. Or you might have companies</p> <p>9 that spend an excessive amount of time going</p> <p>10 through, revising policies, and then it's</p> <p>11 issued, and then because it takes so long to</p> <p>12 get it changed they decide we're not changing</p> <p>13 it for another year or two.</p> <p>14 Q. After you did the 2008 audit</p> <p>15 you recognized that there were some areas for</p> <p>16 improvement, is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And how did you recognize that</p> <p>19 there was that need for improvement?</p> <p>20 A. I mean, just through -- through</p> <p>21 looking at the process, common sense. You</p> <p>22 know, sometimes things are not in -- sometimes</p> <p>23 people aren't given instructions on how to do</p> <p>24 their jobs, so they do the best they can, but,</p> <p>25 you know, again, they may be new to -- new to</p> <p style="text-align: right;">Page 306</p>	<p>1 DAVID HOLLASCH</p> <p>2 the audit started, it started before I joined</p> <p>3 the company. So I'm sure somebody else had</p> <p>4 seen that issue as well.</p> <p>5 Q. But is it fair to say that the</p> <p>6 way the company was able to see the issue was</p> <p>7 by performing the audit?</p> <p>8 A. Yes. That's correct.</p> <p>9 Q. Okay. I want to focus on this</p> <p>10 issue of not all slides being read at speaker</p> <p>11 programs for a second.</p> <p>12 You testified that it was your</p> <p>13 recommendation that the slide deck should get</p> <p>14 shorter and that all slides should be read, is</p> <p>15 that correct?</p> <p>16 A. That's correct.</p> <p>17 Q. And who within compliance</p> <p>18 disagreed with that?</p> <p>19 A. I mean, I don't think anybody</p> <p>20 disagreed that the slides were long. I mean,</p> <p>21 and it should -- I think the disagreement was</p> <p>22 about every slide needed to be reviewed or</p> <p>23 not. I think there was initial push-back or</p> <p>24 disagreement from Marty Putenis about, you</p> <p>25 know, the need to revise the decks as far as</p> <p style="text-align: right;">Page 308</p>

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<p>1 DAVID HOLLASCH</p> <p>2 what slides need to be presented or not.</p> <p>3 Q. And what was your understanding</p> <p>4 of what Marty's thinking was?</p> <p>5 A. I mean, Marty's thinking was,</p> <p>6 you know, the brand teams and -- the brand</p> <p>7 teams I think who developed all of the slide</p> <p>8 decks, and the medical teams, put in there a</p> <p>9 lot to cover, and as long as the HCPs covered</p> <p>10 key parts, you know, that was sufficient.</p> <p>11 Q. Did you think that Marty was</p> <p>12 operating in good faith when he made that</p> <p>13 argument?</p> <p>14 A. Yes.</p> <p>15 Q. Did you think that Marty was</p> <p>16 insensitive to compliance concerns when he</p> <p>17 made that argument?</p> <p>18 A. You know, it's hard to judge</p> <p>19 going back, that happened so long ago, but I</p> <p>20 do -- I do recall, I thought he was being</p> <p>21 unreasonable in that I think the requests we</p> <p>22 made were valid and, you know, were trying to</p> <p>23 help shorten the slide deck, make it easier</p> <p>24 for the speaker, make it easier for the</p> <p>25 attendees and make it easier for everybody.</p> <p style="text-align: right;">Page 309</p>	<p>1 DAVID HOLLASCH</p> <p>2 anything.</p> <p>3 Q. You testified that if you</p> <p>4 looked at the compliance policies in</p> <p>5 connection with the procedures that the sales</p> <p>6 reps had, that together it would be, I think</p> <p>7 your words were more than effective.</p> <p>8 Do you remember saying that?</p> <p>9 A. Yes.</p> <p>10 Q. Tell me what you meant by that.</p> <p>11 A. I meant by that, if you're a</p> <p>12 representative and you're tasked with hosting</p> <p>13 a program and you want to say, all right, what</p> <p>14 are the rules and guidelines that I need to</p> <p>15 follow, and your district manager says, here,</p> <p>16 here are the compliance policies, read them,</p> <p>17 and then here's all the documentation related</p> <p>18 to the speaker program system and the process</p> <p>19 that's developed by the commercial support</p> <p>20 organization, read all of that and then talk</p> <p>21 to me after that, and I'll walk you through</p> <p>22 how to use the system and how to have a</p> <p>23 program, I think if the representatives read</p> <p>24 all of that, I mean, myself, my team read it,</p> <p>25 we went through, any questions we had we wrote</p> <p style="text-align: right;">Page 311</p>
<p>1 DAVID HOLLASCH</p> <p>2 Why are we getting push-back.</p> <p>3 Q. And why did you think Marty was</p> <p>4 pushing back?</p> <p>5 A. He's just one of those people I</p> <p>6 think that are resistant to change. Maybe it</p> <p>7 was his decision, you know, about the slide</p> <p>8 deck and, you know, he didn't feel we were</p> <p>9 appropriate to challenge his expertise.</p> <p>10 Q. The debate that you were having</p> <p>11 internally about the slide decks, in your mind</p> <p>12 did that have anything to do with whether</p> <p>13 Novartis was in compliance with the</p> <p>14 anti-kickback statute?</p> <p>15 A. No.</p> <p>16 Q. Did you think Marty was being</p> <p>17 insensitive to Novartis's compliance with the</p> <p>18 anti-kickback statute when he was saying, you</p> <p>19 know, you didn't have to shorten the slides or</p> <p>20 make the doctors read every slide?</p> <p>21 MS. JUDE: Objection;</p> <p>22 confusing.</p> <p>23 A. I mean, related to the slides,</p> <p>24 I don't think there was any intent of Marty,</p> <p>25 you know, to violate any kickback statutes or</p> <p style="text-align: right;">Page 310</p>	<p>1 DAVID HOLLASCH</p> <p>2 down, what does this mean, give me</p> <p>3 clarification, you know, I mean, it was easy</p> <p>4 for us to decipher what should be done or what</p> <p>5 shouldn't be done.</p> <p>6 Q. In Government Exhibit 3 you</p> <p>7 were asked a lot of questions about this</p> <p>8 document, and I'll give you a second to find</p> <p>9 it.</p> <p>10 A. Okay.</p> <p>11 Q. The second sentence says: "I</p> <p>12 feel this way because there has been plenty of</p> <p>13 evidence to demonstrate that current policies</p> <p>14 and practices are inadequate."</p> <p>15 How does what you're saying</p> <p>16 here square with what you just said, that the</p> <p>17 policies and procedures together were more</p> <p>18 than effective?</p> <p>19 A. Because part of any process,</p> <p>20 right, there's a review, and our processes</p> <p>21 happen in how they're supposed to be.</p> <p>22 Here what's inadequate is there</p> <p>23 was no review of activities that happened.</p> <p>24 Right? So when we looked at speaker programs</p> <p>25 and how they're done, right, the control</p> <p style="text-align: right;">Page 312</p>

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<p>1 DAVID HOLLASCH</p> <p>2 A. I'm talking about a control</p> <p>3 that at the end of the meal somebody would --</p> <p>4 somebody is assigned the responsibility to</p> <p>5 review the receipt for reasonableness with</p> <p>6 what was consumed. So if you're the host</p> <p>7 representative you know that there's eight</p> <p>8 attendees, you know that there's eight</p> <p>9 entrTees, you know that there's X amount of</p> <p>10 drinks, you know that there should be eight</p> <p>11 desserts, eight appetizers, or sometimes</p> <p>12 there's appetizer platters, you know, but</p> <p>13 within the details, you look at it.</p> <p>14 Like if you're a -- and this is</p> <p>15 the direction that we gave to the brand teams,</p> <p>16 to the business unit leads. You know, we're</p> <p>17 not trying to turn all the field</p> <p>18 representatives into forensic accountants.</p> <p>19 We're trying to make it reasonable. You go</p> <p>20 out to dinner with your family, you have four</p> <p>21 people. You make sure there's four entrTees.</p> <p>22 You don't pay for seven, right? The same</p> <p>23 thing as when you go out to eat with your</p> <p>24 family or your boyfriend, girlfriend, spouse.</p> <p>25 The same thing applies when you go out to eat</p> <p style="text-align: right;">Page 317</p>	<p>1 DAVID HOLLASCH</p> <p>2 mischaracterizes the testimony.</p> <p>3 BY MR. GRUENSTEIN:</p> <p>4 Q. Did that second issue, sales</p> <p>5 calls, did that relate at all to speaker</p> <p>6 programs?</p> <p>7 A. No. Sales calls and speaker</p> <p>8 programs are two different things.</p> <p>9 Q. Okay. You testified that there</p> <p>10 was push-back when you recommended that</p> <p>11 district managers monitor speaker programs</p> <p>12 after the 2008 audit. Do you recall saying</p> <p>13 that?</p> <p>14 A. I recall saying, I don't know</p> <p>15 if I used the term monitor, but I said review</p> <p>16 the records of their representatives.</p> <p>17 Q. And who pushed back on that?</p> <p>18 A. I mean, there was -- I remember</p> <p>19 talking about that in meetings, and a lot of</p> <p>20 push-back was from many of the attendees</p> <p>21 saying, you know, it's never going to fly with</p> <p>22 sales. You know, district managers are</p> <p>23 burdened with a lot of work already and this</p> <p>24 is just too much to add to that.</p> <p>25 Q. During those discussions was</p> <p style="text-align: right;">Page 319</p>
<p>1 DAVID HOLLASCH</p> <p>2 with the company.</p> <p>3 Q. So this was an issue with the</p> <p>4 financial controls?</p> <p>5 A. Yes.</p> <p>6 Q. Did you have an understanding</p> <p>7 as to why Novartis would want those controls</p> <p>8 to be in place?</p> <p>9 A. Well, when we want to save</p> <p>10 money, or any company wants to save money and</p> <p>11 not be double-charged, triple-charged or, you</p> <p>12 know, billed for items that weren't consumed.</p> <p>13 Q. And that was your concern as</p> <p>14 well?</p> <p>15 A. Sure.</p> <p>16 Q. When you were talking about the</p> <p>17 2008 audit you said that there was a lack of</p> <p>18 basic controls, and the two things that you</p> <p>19 mentioned were first this issue of AHM being</p> <p>20 the one looking at receipts, and the other</p> <p>21 related to sales calls, people I guess keeping</p> <p>22 track of their sales calls. Do you recall</p> <p>23 that?</p> <p>24 A. Right.</p> <p>25 MS. JUDE: Objection;</p> <p style="text-align: right;">Page 318</p>	<p>1 DAVID HOLLASCH</p> <p>2 there any reference to, if we don't do this,</p> <p>3 will we not be in compliance with the</p> <p>4 anti-kickback statute?</p> <p>5 A. I don't believe we ever talked</p> <p>6 about the anti-kickback statute. I mean, our</p> <p>7 concerns -- I mean, for that objection, my</p> <p>8 proposal to handle it was, listen, you know,</p> <p>9 they're not reviewing 60 programs a month.</p> <p>10 You know, each representative holds, what,</p> <p>11 two, three programs a month, maybe the top</p> <p>12 performers own five. And I, said you know</p> <p>13 what we're asking them to do? Pull the</p> <p>14 receipt, pull the sign-in sheet. Look at the</p> <p>15 two. Are they reasonable -- or do they match.</p> <p>16 Go through number of attendees, number of</p> <p>17 entrTees. Is there bottles of wine or, you</p> <p>18 know, 70, \$80 bottles of wine that might be</p> <p>19 perceived as lavish. Things like that. We</p> <p>20 said it's not, again, turning you into</p> <p>21 forensic accountants. It's a quick</p> <p>22 reasonableness check.</p> <p>23 Q. And again --</p> <p>24 A. I said if you spend ten minutes</p> <p>25 per program, that would be a lot.</p> <p style="text-align: right;">Page 320</p>